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Notices

ENVIRONMENTAL PROTECTION AGENCY (EPA)

[FRL 8774-3]

Clean Water Act Section 303(d): Availability of List Decisions

74 FR 11546

DATE: Wednesday, March 18, 2009

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of EPA's final action identifying water quality limited segments and associated pollutants in New Mexico to be listed pursuant to Clean Water Act Section 303(d), and request for public comment. Section 303(d) requires that states submit and EPA approve or disapprove lists of [*11547] waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards and for which total maximum daily loads (TMDLs) must be prepared.

On February 6, 2009, EPA approved and disapproved New Mexico's 2008 Section 303(d) submittal. Specifically, EPA approved New Mexico's listing of 338 water body-pollutant combinations and associated priority rankings. EPA disapproved New Mexico's decisions not to list one water quality limited segments (or one water body-pollutant combination) and to list two water quality limited segments (or two water body-pollutant combinations). For the disapproval decision not to list one water quality limited segment, EPA identified this additional water body and pollutant along with priority ranking for inclusion on New Mexico's 2008 Section 303(d) List.

EPA is providing the public the opportunity to review its final decisions to both list and de-list waters and pollutants to New Mexico's 2008 Section 303(d) List, as required by EPA's Public Participation regulations (40 CFR part 25). EPA will consider public comments and if necessary amend its final action on the listing and de-listing of water bodies and pollutants identified on New Mexico's Final 2008 Section 303(d) List.

DATES: Comments must be submitted in writing to EPA on or before April 17, 2009.

ADDRESSES: Comments on the decisions should be sent to Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U. S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX

75202-2733, telephone (214) 665-2145, facsimile (214) 665-7373, or e-mail: smith.diane@epa.gov. Oral comments will not be considered. Copies of the Record of Decision which explains the rationale for EPA's decisions can be obtained at EPA Region 6's Web site at <http://www.epa.gov/region6/water/npdes/tmdl/index.htm>, or by writing or calling Ms. Smith at the above address. Underlying documents from the administrative record for these decisions are available for public inspection at the above address. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith at (214) 665-2145.

SUPPLEMENTARY INFORMATION: Section 303(d) of the Clean Water Act (CWA) requires that each state identify those waters for which existing technology-based pollution controls are not stringent enough to attain or maintain state water quality standards. For those waters, states are required to establish Total Maximum Daily Loads (TMDLs) according to a priority ranking.

EPA's Water Quality Planning and Management regulations include requirements related to the implementation of Section 303(d) of the CWA (*40 CFR 130.7*). The regulations require states to identify water quality limited waters still requiring TMDLs every two years. The list of waters still needing TMDLs must also include priority rankings and must identify the waters targeted for TMDL development during the next two years (*40 CFR 130.7*).

Consistent with EPA's regulations, New Mexico submitted to EPA its listing decisions under Section 303(d) on August 12, 2008. On February 6, 2009, EPA approved New Mexico's listing of 338 water body-pollutant combinations and associated priority rankings. EPA disapproved New Mexico's decisions not to list one water quality limited segments (or one water body-pollutant combination) and to list two water quality segments (or two water body-pollutant combinations). EPA solicits public comment on its listing one water to New Mexico's 2008 Section 303(d) List and the de-listing of two waters from New Mexico's 2008 Section 303(d) List.

Dated: February 10, 2009.

James R. Brown,

Acting Director, Water Quality Protection Division, Region 6.

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